

SECOND REGULAR SESSION
SENATE COMMITTEE SUBSTITUTE FOR
HOUSE COMMITTEE SUBSTITUTE FOR
**HOUSE BILLS NOS. 1698,
1236, 995, 1362 & 1290**
93RD GENERAL ASSEMBLY

Reported from the Committee on the Judiciary and Civil and Criminal Jurisprudence, May 2, 2006, with recommendation that the Senate Committee Substitute do pass.

4908S.09C

TERRY L. SPIELER, Secretary.

AN ACT

To repeal sections 43.650, 547.170, 556.061, 558.018, 559.100, 566.010, 566.030, 566.060, 566.067, 566.083, 566.086, 566.090, 566.145, 566.147, 566.151, 568.020, 568.060, 575.195, 589.400, 589.402, 589.403, 589.405, 589.407, 589.414, 589.425, 600.042, 632.484, 632.489, 632.495, 632.498, 632.501, 632.504, and 632.507, RSMo, and to enact in lieu thereof forty-three new sections relating to sexual offenders, with penalty provisions and an emergency clause.

Be it enacted by the General Assembly of the State of Missouri, as follows:

Section A. Sections 43.650, 547.170, 556.061, 558.018, 559.100, 566.010, 566.030, 566.060, 566.067, 566.083, 566.086, 566.090, 566.145, 566.147, 566.151, 568.020, 568.060, 575.195, 589.400, 589.402, 589.403, 589.405, 589.407, 589.414, 589.425, 600.042, 632.484, 632.489, 632.495, 632.498, 632.501, 632.504, and 632.507, RSMo, are repealed and forty-three new sections enacted in lieu thereof, to be known as sections 43.533, 43.650, 188.023, 351.609, 489.042, 544.025, 547.170, 556.061, 558.018, 559.100, 566.010, 566.030, 566.060, 566.067, 566.083, 566.086, 566.090, 566.145, 566.147, 566.149, 566.151, 566.213, 568.020, 568.060, 575.159, 575.195, 589.400, 589.402, 589.403, 589.405, 589.407, 589.414, 589.425, 600.042, 632.484, 632.489, 632.495, 632.498, 632.501, 632.504, 632.505, 632.507, and 650.120, to read as follows:

43.533. 1. The highway patrol shall, subject to appropriation,

EXPLANATION—Matter enclosed in bold-faced brackets [thus] in this bill is not enacted and is intended to be omitted in the law.

2 operate a toll-free telephone number in order to disseminate
3 registration information provided by individuals who are required to
4 register under sections 589.400 to 589.425, RSMo, and receive
5 information from persons regarding the residency of a registered
6 sexual offender. The information available via the telephone number
7 shall include only information that offenders are required to provide
8 under section 589.407, RSMo. When the highway patrol provides such
9 information regarding a sexual offender, the patrol personnel shall
10 advise the person making the inquiry that positive identification of a
11 person believed to be a sexual offender cannot be established unless a
12 fingerprint comparison is made, and that it is illegal to use such
13 information regarding a registered sexual offender to facilitate the
14 commission of a crime. The toll-free telephone number shall be
15 published on the highway patrol's sexual offender registry website
16 maintained under section 43.650.

17 2. The patrol shall promulgate rules to effect the enforcement of
18 this section. Any rule or portion of a rule, as that term is defined in
19 section 536.010, RSMo, that is created under the authority delegated in
20 this section shall become effective only if it complies with and is
21 subject to all of the provisions of chapter 536, RSMo, and, if applicable,
22 section 536.028, RSMo. This section and chapter 536, RSMo, are
23 nonseverable and if any of the powers vested with the general assembly
24 pursuant to chapter 536, RSMo, to review, to delay the effective date,
25 or to disapprove and annul a rule are subsequently held
26 unconstitutional, then the grant of rulemaking authority and any rule
27 proposed or adopted after August 28, 2006, shall be invalid and void.

43.650. 1. The patrol shall, subject to appropriation, maintain a web page
2 on the Internet which shall be open to the public and shall include a registered
3 sexual offender search capability.

4 2. The registered sexual offender search shall make it possible for any
5 person using the Internet to search for and find the information specified in
6 [subdivisions (1) to (4) of subsection 4 of] this section, if known, on offenders
7 registered in this state pursuant to sections 589.400 to 589.425, RSMo, except
8 that only persons who have been convicted of, found guilty of or plead guilty to
9 committing or attempting to commit sexual offenses shall be included on this web
10 site.

11 3. The registered sexual offender search shall include the capability to
12 search for sexual offenders by name, zip code, and by typing in an address and
13 specifying a search within a certain number of miles radius from that address.

14 4. Only the information listed in [subdivisions (1) to (4) of] this subsection
15 shall be provided to the public in the registered sexual offender search:

16 (1) The name **and any known aliases** of the offender;

17 (2) **The date of birth and any known alias dates of birth of the**
18 **offender;**

19 (3) **A physical description of the offender;**

20 (4) The [last known address] **residence, temporary, work, and school**
21 **addresses** of the offender, including the street address, city, county, state, and
22 zip code;

23 [(3) A photograph] **(5) Any photographs** of the offender; [and

24 (4) The crime or crimes for which the offender was convicted that caused
25 him or her to have to register.]

26 **(6) A physical description of the offender's vehicles, including**
27 **the year, make, model, color, and license plate number;**

28 **(7) The nature and dates of all offenses qualifying the offender**
29 **to register;**

30 **(8) The date on which the offender was released from the**
31 **department of mental health, prison, or jail, or placed on parole,**
32 **supervised release, or probation for the offenses qualifying the offender**
33 **to register; and**

34 **(9) Compliance status of the offender with the provisions of**
35 **section 589.400 to 589.425, RSMo.**

 188.023. Any licensed health care professional who delivers a
2 baby or performs an abortion, who has prima facie evidence that a
3 patient has been the victim of statutory rape in the first degree or
4 statutory rape in the second degree, or if the patient is under the age
5 of eighteen, that he or she has been a victim of sexual abuse, including
6 forcible rape, sexual assault, or incest, shall be required to report such
7 offenses in the same manner as provided for by section 210.115, RSMo.

 351.609. 1. For the purposes of this section, the following terms
2 shall mean:

3 (1) "Adverse result", danger to the life or physical safety of an
4 individual, a flight from prosecution, the destruction of or tampering

5 with evidence, the intimidation of potential witnesses, or serious
6 jeopardy to an investigation or undue delay of a trial that occurs as a
7 result of the notification of a subpoena or search warrant.

8 (2) "Electronic communication services" and "remote computing
9 services", the same meaning as provided by the Electronic
10 Communications Privacy Act in Chapter 121 (commencing with Section
11 2701) of Part I of Title 18 of the United States Code Annotated, as
12 amended. This section shall not apply to corporations that do not
13 provide electronic communication services or remote computing
14 services to the general public.

15 (3) "Foreign corporation", the same meaning as defined in section
16 351.015, and in addition, those corporations organized under the laws
17 of the United States government.

18 (4) "Missouri corporation", any corporation governed by the
19 general and business corporation law of Missouri under the provisions
20 of this chapter that files its articles of incorporation with the Missouri
21 secretary of state and is issued a certificate of incorporation under
22 section 351.060, RSMo.

23 (5) "Properly served", a subpoena or search warrant that has
24 been delivered by hand, or in a manner reasonably allowing for proof
25 of delivery by United States mail, overnight delivery service, or
26 facsimile to any officer of a foreign corporation or its general manager
27 in this state, or if the corporation is a bank to a cashier or an assistant
28 cashier, or to any natural person designated by the foreign corporation
29 as an agent for the service of process, or any person named in the latest
30 certificate of the corporate agent if the corporation has designated
31 such a corporate agent. A copy of the statement and designation, or a
32 copy of the latest statement filed and certified by the secretary of state
33 is sufficient evidence of the appointment of an agent for the service of
34 process.

35 2. The provisions of this section shall apply to any subpoena or
36 search warrant issued to search for records that are in the actual or
37 constructive possession of a foreign corporation that provides
38 electronic communication services or remote computing services to the
39 general public, where those records would reveal the identity of the
40 customers using the service, data stored by, or on behalf of, the

41 customer, the customer's usage of those services, the recipient or
42 destination of communications sent to or from those customers, or the
43 content of those communications.

44 3. When properly served with a subpoena or search warrant
45 issued by a Missouri court, a foreign corporation shall provide to the
46 peace officer to whom the subpoena or search warrant was issued, all
47 records sought under the subpoena or search warrant within five
48 business days of receipt, including any records maintained or located
49 outside the state.

50 4. Where the peace officer to whom a subpoena or search
51 warrant was issued makes a showing and the issuing judge finds that
52 failure to produce records within five business days will cause an
53 adverse result, the subpoena or search warrant may require production
54 of records within less than five business days. A court may reasonably
55 extend the time required for production of the records upon finding
56 that the foreign corporation has shown good cause for that extension
57 and that an extension of time would not cause an adverse result.

58 5. A foreign corporation seeking to quash the subpoena or search
59 warrant shall seek relief from the court that issued the subpoena or
60 search warrant within the time required for production of records
61 under this section. The issuing court shall hear and decide that motion
62 no later than five court days after the motion is filed.

63 6. The foreign corporation shall verify the authenticity of
64 records that it produces by providing a verified affidavit. Such records
65 shall be admissible as evidence.

66 7. A Missouri corporation that provides electronic
67 communication services or remote computing services to the general
68 public, when served with a subpoena or search warrant issued by
69 another state to produce records that reveal the identity of the
70 customers using those services, data stored by, or on behalf of, the
71 customer, the customer's usage of those services, the recipient or
72 destination of communications sent to or from those customers, or the
73 content of those communications, shall produce those records as if the
74 subpoena or search warrant was issued by a court of this state.

75 8. No cause of action shall lie against any foreign corporation or
76 Missouri corporation subject to this section, its officers, employees,

77 agents, or other specified persons for providing records, information,
78 facilities, or assistance in accordance with the terms of a subpoena or
79 search warrant subject to this section.

489.042. The court or the board of probation and parole shall
2 have the authority to require a person who is required to register as a
3 sexual offender under sections 589.400 to 589.425, RSMo, to give his or
4 her assigned probation or parole officer access to his or her personal
5 home computer as a condition of probation or parole in order to
6 monitor and prevent such offender from obtaining and keeping child
7 pornography or from committing an offense under chapter 566,
8 RSMo. Such access shall allow the probation or parole officer to view
9 the internet use history, computer hardware, and computer software of
10 any computer, including a laptop computer, that the offender owns.

544.025. 1. When a victim of a sexual offense initially makes a
2 report of such offense to a law enforcement officer or a prosecuting or
3 circuit attorney, such law enforcement officer or prosecuting or circuit
4 attorney shall endeavor to inform the victim that he or she has a right
5 to request a no contact order be issued against the alleged perpetrator
6 of the sexual offense and how the victim can obtain such an order.

2. When a judge issues an arrest warrant for a person alleged to
8 have committed a sexual offense, regardless of whether or not the
9 warrant is based on a complaint, indictment, or information, such judge
10 shall, if it has been requested by the victim or victims, also enter an
11 order at the same time stating that the defendant shall have no contact
12 or communication of any kind, direct or indirect, with the alleged
13 victim or victims. The order shall remain in effect until the criminal
14 case is concluded. As used in this section "no contact or communication
15 of any kind, direct or indirect" includes but is not limited to contact or
16 communication in person, by writing, telephone, fax, e-mail, or any
17 other type of electronic communication, and includes contact or
18 communication through a third party or parties, except that the
19 defendant may communicate through his or her attorney to the
20 prosecuting or circuit attorney, or if the defendant does not have
21 counsel, directly to the prosecuting or circuit attorney, any lawful
22 request or legally necessary information which the prosecuting or
23 circuit attorney may then relay to the victim, if appropriate.

24 **3. The court shall revoke the bond of any defendant who**
25 **knowingly violates the no contact or communication provisions of**
26 **subsection 2 of this section.**

 547.170. In all cases where an appeal or writ of error is prosecuted from
2 a judgment in a criminal cause, except where the defendant is under sentence of
3 death or imprisonment in the penitentiary for life, or a sentence of imprisonment
4 for a violation of sections 195.222, RSMo, 565.021, RSMo, 565.050, RSMo,
5 subsections 1 and 2 of section 566.030, 566.032, 566.040, 566.060, 566.062,
6 **566.067**, 566.070, **566.083**, 566.100, **566.151**, **566.212**, **566.213**, **568.080**,
7 **568.090**, **573.023**, **573.025**, **573.035**, **573.037**, RSMo, any court or officer
8 authorized to order a stay of proceedings under the preceding provisions may
9 allow a writ of habeas corpus, to bring up the defendant, and may thereupon let
10 him to bail upon a recognizance, with sufficient sureties, to be approved by such
11 court or judge.

 556.061. In this code, unless the context requires a different definition,
2 the following shall apply:

3 (1) "Affirmative defense" has the meaning specified in section 556.056;
4 (2) "Burden of injecting the issue" has the meaning specified in section
5 556.051;

6 (3) "Commercial film and photographic print processor", any person who
7 develops exposed photographic film into negatives, slides or prints, or who makes
8 prints from negatives or slides, for compensation. The term commercial film and
9 photographic print processor shall include all employees of such persons but shall
10 not include a person who develops film or makes prints for a public agency;

11 (4) "Confinement":

12 (a) A person is in confinement when such person is held in a place of
13 confinement pursuant to arrest or order of a court, and remains in confinement
14 until:

15 a. A court orders the person's release; or

16 b. The person is released on bail, bond, or recognizance, personal or
17 otherwise; or

18 c. A public servant having the legal power and duty to confine the person
19 authorizes his release without guard and without condition that he return to
20 confinement;

21 (b) A person is not in confinement if:

22 a. The person is on probation or parole, temporary or otherwise; or

23 b. The person is under sentence to serve a term of confinement which is
24 not continuous, or is serving a sentence under a work-release program, and in
25 either such case is not being held in a place of confinement or is not being held
26 under guard by a person having the legal power and duty to transport the person
27 to or from a place of confinement;

28 (5) "Consent": consent or lack of consent may be expressed or
29 implied. Assent does not constitute consent if:

30 (a) It is given by a person who lacks the mental capacity to authorize the
31 conduct charged to constitute the offense and such mental incapacity is manifest
32 or known to the actor; or

33 (b) It is given by a person who by reason of youth, mental disease or
34 defect, or intoxication, is manifestly unable or known by the actor to be unable
35 to make a reasonable judgment as to the nature or harmfulness of the conduct
36 charged to constitute the offense; or

37 (c) It is induced by force, duress or deception;

38 (6) "Criminal negligence" has the meaning specified in section 562.016,
39 RSMo;

40 (7) "Custody", a person is in custody when the person has been arrested
41 but has not been delivered to a place of confinement;

42 (8) "Dangerous felony" means the felonies of arson in the first degree,
43 assault in the first degree, attempted forcible rape if physical injury results,
44 attempted forcible sodomy if physical injury results, forcible rape, forcible
45 sodomy, kidnaping, murder in the second degree, assault of a law enforcement
46 officer in the first degree, domestic assault in the first degree, elder abuse in the
47 first degree, robbery in the first degree, statutory rape in the first degree when
48 the victim is a child less than twelve years of age at the time of the commission
49 of the act giving rise to the offense, statutory sodomy in the first degree when the
50 victim is a child less than twelve years of age at the time of the commission of the
51 act giving rise to the offense, and, abuse of a child pursuant to subdivision (2) of
52 subsection 3 of section 568.060, RSMo, **and child kidnapping;**

53 (9) "Dangerous instrument" means any instrument, article or substance,
54 which, under the circumstances in which it is used, is readily capable of causing
55 death or other serious physical injury;

56 (10) "Deadly weapon" means any firearm, loaded or unloaded, or any
57 weapon from which a shot, readily capable of producing death or serious physical
58 injury, may be discharged, or a switchblade knife, dagger, billy, blackjack or

59 metal knuckles;

60 (11) "Felony" has the meaning specified in section 556.016;

61 (12) "Forcible compulsion" means either:

62 (a) Physical force that overcomes reasonable resistance; or

63 (b) A threat, express or implied, that places a person in reasonable fear
64 of death, serious physical injury or kidnapping of such person or another person;

65 (13) "Incapacitated" means that physical or mental condition, temporary
66 or permanent, in which a person is unconscious, unable to appraise the nature of
67 such person's conduct, or unable to communicate unwillingness to an act. A
68 person is not incapacitated with respect to an act committed upon such person if
69 he or she became unconscious, unable to appraise the nature of such person's
70 conduct or unable to communicate unwillingness to an act, after consenting to the
71 act;

72 (14) "Infraction" has the meaning specified in section 556.021;

73 (15) "Inhabitable structure" has the meaning specified in section 569.010,
74 RSMo;

75 (16) "Knowingly" has the meaning specified in section 562.016, RSMo;

76 (17) "Law enforcement officer" means any public servant having both the
77 power and duty to make arrests for violations of the laws of this state, and
78 federal law enforcement officers authorized to carry firearms and to make arrests
79 for violations of the laws of the United States;

80 (18) "Misdemeanor" has the meaning specified in section 556.016;

81 (19) "Offense" means any felony, misdemeanor or infraction;

82 (20) "Physical injury" means physical pain, illness, or any impairment of
83 physical condition;

84 (21) "Place of confinement" means any building or facility and the grounds
85 thereof wherein a court is legally authorized to order that a person charged with
86 or convicted of a crime be held;

87 (22) "Possess" or "possessed" means having actual or constructive
88 possession of an object with knowledge of its presence. A person has actual
89 possession if such person has the object on his or her person or within easy reach
90 and convenient control. A person has constructive possession if such person has
91 the power and the intention at a given time to exercise dominion or control over
92 the object either directly or through another person or persons. Possession may
93 also be sole or joint. If one person alone has possession of an object, possession
94 is sole. If two or more persons share possession of an object, possession is joint;

95 (23) "Public servant" means any person employed in any way by a
96 government of this state who is compensated by the government by reason of such
97 person's employment, any person appointed to a position with any government of
98 this state, or any person elected to a position with any government of this state.
99 It includes, but is not limited to, legislators, jurors, members of the judiciary and
100 law enforcement officers. It does not include witnesses;

101 (24) "Purposely" has the meaning specified in section 562.016, RSMo;

102 (25) "Recklessly" has the meaning specified in section 562.016, RSMo;

103 (26) "Ritual" or "ceremony" means an act or series of acts performed by
104 two or more persons as part of an established or prescribed pattern of activity;

105 (27) "Serious emotional injury", an injury that creates a substantial risk
106 of temporary or permanent medical or psychological damage, manifested by
107 impairment of a behavioral, cognitive or physical condition. Serious emotional
108 injury shall be established by testimony of qualified experts upon the reasonable
109 expectation of probable harm to a reasonable degree of medical or psychological
110 certainty;

111 (28) "Serious physical injury" means physical injury that creates a
112 substantial risk of death or that causes serious disfigurement or protracted loss
113 or impairment of the function of any part of the body;

114 (29) "Sexual conduct" means acts of human masturbation; deviate sexual
115 intercourse; sexual intercourse; or physical contact with a person's clothed or
116 unclothed genitals, pubic area, buttocks, or the breast of a female in an act of
117 apparent sexual stimulation or gratification;

118 (30) "Sexual contact" means any touching of the genitals or anus of any
119 person, or the breast of any female person, or any such touching through the
120 clothing, for the purpose of arousing or gratifying sexual desire of any person;

121 (31) "Sexual performance", any performance, or part thereof, which
122 includes sexual conduct by a child who is less than seventeen years of age;

123 (32) "Voluntary act" has the meaning specified in section 562.011, RSMo.

558.018. 1. The court shall sentence a person who has pleaded guilty to
2 or has been found guilty of the felony of forcible rape, statutory rape in the first
3 degree, forcible sodomy, statutory sodomy in the first degree or an attempt to
4 commit any of the crimes designated in this subsection to an extended term of
5 imprisonment if it finds the defendant is a persistent sexual offender.

6 2. A "persistent sexual offender" is one who has previously pleaded guilty
7 to or has been found guilty of the felony of forcible rape, rape, statutory rape in

8 the first degree, forcible sodomy, sodomy, statutory sodomy in the first degree or
9 an attempt to commit any of the crimes designated in this subsection.

10 3. The term of imprisonment for one found to be a persistent sexual
11 offender shall be [not less than thirty years, which term shall be served without]
12 **imprisonment for life without eligibility for probation or**
13 **parole. Subsection 4 of section 558.019 shall not apply to any person**
14 **imprisoned under this subsection, and "imprisonment for life" shall**
15 **mean imprisonment for the duration of the person's natural life.**

16 4. The court shall sentence a person who has pleaded guilty to or has been
17 found guilty of the felony of forcible rape, statutory rape in the first degree,
18 forcible sodomy, statutory sodomy in the first degree, or an attempt to commit
19 any of the preceding crimes or child molestation in the first degree when
20 classified as a class B felony or sexual abuse when classified as a class B felony
21 to an extended term of imprisonment as provided for in this section if it finds the
22 defendant is a predatory sexual offender.

23 5. For purposes of this section, a "predatory sexual offender" is a person
24 who:

25 (1) Has previously pleaded guilty to or has been found guilty of the felony
26 of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy,
27 statutory sodomy in the first degree, or an attempt to commit any of the
28 preceding crimes or child molestation in the first degree when classified as a class
29 B felony or sexual abuse when classified as a class B felony; or

30 (2) Has previously committed an act which would constitute an offense
31 listed in subsection 4 of this section, whether or not the act resulted in a
32 conviction; or

33 (3) Has committed an act or acts against more than one victim which
34 would constitute an offense or offenses listed in subsection 4 of this section,
35 whether or not the defendant was charged with an additional offense or offenses
36 as a result of such act or acts.

37 6. A person found to be a predatory sexual offender shall be imprisoned
38 for life with eligibility for parole, however subsection 4 of section 558.019 shall
39 not apply to persons found to be predatory sexual offenders for the purposes of
40 determining the minimum prison term or the length of sentence as defined or
41 used in such subsection. Notwithstanding any other provision of law, in no event
42 shall a person found to be a predatory sexual offender receive a final discharge
43 from parole.

44 7. Notwithstanding any other provision of law, the court shall set the
45 minimum time required to be served before a predatory sexual offender is eligible
46 for parole, conditional release or other early release by the department of
47 corrections. The minimum time to be served by a person found to be a predatory
48 sexual offender who:

49 (1) Has previously pleaded guilty to or has been found guilty of the felony
50 of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy,
51 statutory sodomy in the first degree, or an attempt to commit any of the
52 preceding crimes and pleads guilty to or is found guilty of the felony of forcible
53 rape, statutory rape in the first degree, forcible sodomy, statutory sodomy in the
54 first degree or an attempt to commit any of the preceding crimes shall be any
55 number of years but not less than thirty years;

56 (2) Has previously pleaded guilty to or has been found guilty of child
57 molestation in the first degree when classified as a class B felony or sexual abuse
58 when classified as a class B felony and pleads guilty to or is found guilty of
59 attempting to commit or committing forcible rape, statutory rape in the first
60 degree, forcible sodomy or statutory sodomy in the first degree shall be any
61 number of years but not less than fifteen years;

62 (3) Has previously pleaded guilty to or has been found guilty of the felony
63 of forcible rape, rape, statutory rape in the first degree, forcible sodomy, sodomy,
64 statutory sodomy in the first degree, or an attempt to commit any of the
65 preceding crimes and pleads guilty to or is found guilty of child molestation in the
66 first degree when classified as a class B felony or sexual abuse when classified as
67 a class B felony shall be any number of years but not less than fifteen years;

68 (4) Has previously pleaded guilty to or has been found guilty of child
69 molestation in the first degree when classified as a class B felony or sexual abuse
70 when classified as a class B felony, and pleads guilty to or is found guilty of child
71 molestation in the first degree when classified as a class B felony or sexual abuse
72 when classified as a class B felony shall be any number of years but not less than
73 fifteen years;

74 (5) Is found to be a predatory sexual offender pursuant to subdivision (2)
75 or (3) of subsection 5 of this section shall be any number of years within the
76 range to which the person could have been sentenced pursuant to the applicable
77 law if the person was not found to be a predatory sexual offender.

78 8. Notwithstanding any provision of law to the contrary, the department
79 of corrections, or any division thereof, may not furlough an individual found to be

80 and sentenced as a persistent sexual offender or a predatory sexual offender.

559.100. 1. The circuit courts of this state shall have power, herein
2 provided, to place on probation or to parole persons convicted of any offense over
3 which they have jurisdiction, except as otherwise provided in sections 195.275 to
4 195.296, RSMo, section 558.018, RSMo, **section 559.115**, section 565.020, RSMo,
5 **sections 566.030, 566.060, 566.151, 566.212, and 566.213, RSMo**, section
6 571.015, RSMo, and [section 559.115] **subsection 3 of section 589.425, RSMo**.

7 2. The circuit court shall have the power to revoke the probation or parole
8 previously granted and commit the person to the department of corrections. The
9 circuit court shall determine any conditions of probation or parole for the
10 defendant that it deems necessary to ensure the successful completion of the
11 probation or parole term, including the extension of any term of supervision for
12 any person while on probation or parole. The circuit court may require that the
13 defendant pay restitution for his crime. The probation or parole may be revoked
14 for failure to pay restitution or for failure to conform his behavior to the
15 conditions imposed by the circuit court. The circuit court may, in its discretion,
16 credit any period of probation or parole as time served on a sentence.

566.010. As used in this chapter and chapter 568, RSMo, the following
2 terms mean:

3 (1) "Deviate sexual intercourse", any act involving the genitals of one
4 person and the hand, mouth, tongue, or anus of another person or a sexual act
5 involving the penetration, however slight, of the male or female sex organ or the
6 anus by a finger, instrument or object done for the purpose of arousing or
7 gratifying the sexual desire of any person **or for the purpose of terrorizing**
8 **the victim;**

9 (2) "Sexual conduct", sexual intercourse, deviate sexual intercourse or
10 sexual contact;

11 (3) "Sexual contact", any touching of another person with the genitals or
12 any touching of the genitals or anus of another person, or the breast of a female
13 person, or such touching through the clothing, for the purpose of arousing or
14 gratifying sexual desire of any person;

15 (4) "Sexual intercourse", any penetration, however slight, of the female sex
16 organ by the male sex organ, whether or not an emission results.

566.030. 1. A person commits the crime of forcible rape if such person has
2 sexual intercourse with another person by the use of forcible
3 compulsion. Forcible compulsion includes the use of a substance administered

4 without a victim's knowledge or consent which renders the victim physically or
5 mentally impaired so as to be incapable of making an informed consent to sexual
6 intercourse. **Any sexual intercourse with a child under the age of twelve**
7 **shall be deemed to have been committed by use of forcible compulsion.**

8 2. Forcible rape or an attempt to commit forcible rape is a felony for which
9 the authorized term of imprisonment is life imprisonment or a term of years not
10 less than five years, unless:

11 (1) In the course thereof the actor inflicts serious physical injury or
12 displays a deadly weapon or dangerous instrument in a threatening manner or
13 subjects the victim to sexual intercourse or deviate sexual intercourse with more
14 than one person, in which case the authorized term of imprisonment is life
15 imprisonment or a term of years not less than [ten] **fifteen years; or**

16 (2) **The victim is a child less than twelve years of age, in which**
17 **case the required term of imprisonment is life imprisonment without**
18 **eligibility for probation or parole until the defendant has served not**
19 **less than twenty-five years of such sentence or unless the defendant has**
20 **reached the age of seventy-five years and has served at least fifteen**
21 **years of such sentence. Subsection 4 of section 558.019, RSMo, shall not**
22 **apply to the sentence of a person who has pleaded guilty to or has been**
23 **found guilty of forcible rape when the victim is under the age of twelve,**
24 **and "life imprisonment" shall mean imprisonment for the duration of a**
25 **person's natural life for the purposes of this section.**

26 3. **No person found guilty of or pleading guilty to forcible rape**
27 **or an attempt to commit forcible rape shall be granted a suspended**
28 **imposition of sentence or suspended execution of sentence.**

566.060. 1. A person commits the crime of forcible sodomy if such person
2 has deviate sexual intercourse with another person by the use of forcible
3 compulsion. Forcible compulsion includes the use of a substance administered
4 without a victim's knowledge or consent which renders the victim physically or
5 mentally impaired so as to be incapable of making an informed consent to sexual
6 intercourse. **Any deviate sexual intercourse with a child under the age**
7 **of twelve shall be deemed to have been committed by use of forcible**
8 **compulsion.**

9 2. Forcible sodomy or an attempt to commit forcible sodomy is a felony for
10 which the authorized term of imprisonment is life imprisonment or a term of
11 years not less than five years, unless:

12 **(1) In the course thereof the actor inflicts serious physical injury or**
13 **displays a deadly weapon or dangerous instrument in a threatening manner or**
14 **subjects the victim to sexual intercourse or deviate sexual intercourse with more**
15 **than one person, in which case the authorized term of imprisonment is life**
16 **imprisonment or a term of years not less than ten years; or**

17 **(2) The victim is a child less than twelve years of age, in which**
18 **case the required term of imprisonment is life imprisonment without**
19 **eligibility for probation or parole until the defendant has served not**
20 **less than twenty-five years of such sentence or unless the defendant has**
21 **reached the age of seventy-five years and has served at least fifteen**
22 **years of such sentence. Subsection 4 of section 558.019, RSMo, shall not**
23 **apply to the sentence of a person who has pleaded guilty to or has been**
24 **found guilty of forcible sodomy when the victim is under the age of**
25 **twelve, and "life imprisonment" shall mean imprisonment for the**
26 **duration of a person's natural life for the purposes of this section.**

27 **3. No person found guilty of or pleading guilty to forcible sodomy**
28 **or an attempt to commit forcible sodomy shall be granted a suspended**
29 **imposition of sentence or suspended execution of sentence.**

 566.067. 1. A person commits the crime of child molestation in the first
2 degree if he or she subjects another person who is less than fourteen years of age
3 to sexual contact.

4 2. Child molestation in the first degree is a class B felony unless:

5 **(1) The actor has previously been convicted of an offense under this**
6 **chapter or in the course thereof the actor inflicts serious physical injury, displays**
7 **a deadly weapon or deadly instrument in a threatening manner, or the offense is**
8 **committed as part of a ritual or ceremony, in which case the crime is a class A**
9 **felony; or**

10 **(2) The victim is a child less than twelve years of age and:**

11 **(a) The actor has previously been convicted of an offense under**
12 **this chapter; or**

13 **(b) In the course thereof the actor inflicts serious physical**
14 **injury, displays a deadly weapon or deadly instrument in a threatening**
15 **manner, or if the offense is committed as part of a ritual or ceremony,**
16 **in which case, the crime is a class A felony and such person shall serve**
17 **his or her term of imprisonment without eligibility for probation or**
18 **parole.**

566.083. 1. A person commits the crime of sexual misconduct involving
2 a child if the person:

3 (1) Knowingly exposes his or her genitals to a child less than fourteen
4 years of age under circumstances in which he or she knows that his or her
5 conduct is likely to cause affront or alarm to the child;

6 (2) Knowingly exposes his or her genitals to a child less than fourteen
7 years of age for the purpose of arousing or gratifying the sexual desire of any
8 person, including the child; or

9 (3) Knowingly coerces or induces a child less than fourteen years of age
10 to expose the child's genitals for the purpose of arousing or gratifying the sexual
11 desire of any person, including the child.

12 2. [As used in this section, the term "sexual act" means any of the
13 following, whether performed or engaged in either with any other person or alone:
14 sexual or anal intercourse, masturbation, bestiality, sadism, masochism,
15 fetishism, fellatio, cunnilingus, any other sexual activity or nudity, if such nudity
16 is to be depicted for the purpose of sexual stimulation or gratification of any
17 individual who may view such depiction.

18 3. Violation of this section] **The provisions of this section shall apply**
19 **regardless of whether the person violates the section in person or via**
20 **the Internet or other electronic means.**

21 3. **It is not an affirmative defense to prosecution for a violation**
22 **of this section that the other person was a peace officer masquerading**
23 **as a minor.**

24 4. **Sexual misconduct involving a child** is a class D felony unless the
25 actor has previously pleaded guilty to or been [convicted] **found guilty** of an
26 offense pursuant to this chapter or the actor has previously pleaded guilty to or
27 has been convicted of an offense against the laws of another state or jurisdiction
28 which would constitute an offense under this chapter, in which case it is a class
29 C felony.

566.086. 1. A person commits the crime of sexual contact with a student
2 while on public school property if he or she **has sexual contact with a student**
3 **of the public school while on any public school property and is:**

4 (1) A teacher, as that term is defined in subdivisions (4), (5), and (7) of
5 section 168.104, RSMo[, and he or she has sexual contact with a student of the
6 public school while on any public school property];

7 (2) **A student teacher;**

- 8 **(3) An employee of the school;**
9 **(4) A volunteer of the school or of an organization working with**
10 **the school on a project or program; or**
11 **(5) A person employed by an entity that contracts with the public**
12 **school district to provide services.**

13 2. For the purposes of this section, "public school property" shall mean
14 property of any public school in this state serving kindergarten through grade
15 twelve **or any school bus used by the public school district.**

16 3. Sexual contact with a student while on public school property is a class
17 D felony.

566.090. 1. A person commits the crime of sexual misconduct in the first
2 degree if he **or she** has deviate sexual intercourse with another person of the
3 same sex [or he], purposely subjects another person to sexual contact without
4 that person's consent, **or knowingly exposes his or her genitals to another**
5 **person without consent for the purpose of sexual gratification.**

6 2. Sexual misconduct in the first degree is a class A misdemeanor unless
7 the actor has previously been convicted of an offense under this chapter or unless
8 in the course thereof the actor displays a deadly weapon in a threatening manner
9 or the offense is committed as a part of a ritual or ceremony, in which case it is
10 a class D felony.

566.145. 1. A person commits the crime of sexual contact with [an
2 inmate] **a prisoner or offender** if:

3 **(1) Such person is an employee of, or assigned to work in, any jail, prison**
4 **or correctional facility and such person has sexual intercourse or deviate sexual**
5 **intercourse with [an inmate or resident of the facility] a prisoner or offender;**
6 **or**

7 **(2) Such person is a probation and parole officer and has sexual**
8 **intercourse or deviate sexual intercourse with an offender who is**
9 **under the direct supervision of the officer.**

10 2. For the purposes of this section the following terms shall
11 mean:

12 **(1) "Prisoner", includes any person who is in the custody of a jail,**
13 **whether pretrial or after disposition of a charge;**

14 **(2) "Offender", includes any person in the custody of a prison or**
15 **correctional facility and any person who is under the supervision of the**
16 **state board of probation and parole.**

17 **3. Sexual contact with [an inmate] a prisoner or offender** is a class D
18 felony.

19 [3. The victim's consent] **4. Consent of a prisoner or offender** is not
20 an affirmative defense.

 566.147. 1. Any person who, **since July 1, 1979, has been or**
2 **hereafter** has pleaded guilty or nolo contendere to, or been convicted of, or been
3 found guilty of violating any of the provisions of this chapter or the provisions of
4 section 565.253, RSMo, invasion of privacy; subsection 2 of section 568.020,
5 RSMo, incest; section 568.045, RSMo, endangering the welfare of a child in the
6 first degree; subsection 2 of section 568.080, RSMo, use of a child in a sexual
7 performance; section 568.090, RSMo, promoting a sexual performance by a child;
8 section 573.023, RSMo, sexual exploitation of a minor; section 573.025, RSMo,
9 promoting child pornography in the first degree; section 573.035, RSMo,
10 promoting child pornography in the second degree; section 573.037, RSMo,
11 possession of child pornography, or section 573.040, RSMo, furnishing
12 pornographic material to minors; shall not [establish residency] **reside** within
13 one thousand feet of any public school as defined in section 160.011, RSMo, or
14 any private school giving instruction in a grade or grades not higher than the
15 twelfth grade, or child-care facility as defined in section 210.201, RSMo, which is
16 in existence at the time such residency is established.

17 2. If such person has already established a residence and a public school,
18 a private school, or child-care facility is subsequently built or placed within one
19 thousand feet of such person's residence, then such person shall, within one week
20 of the opening of such public school, private school, or child-care facility, notify
21 the county sheriff where such public school, private school, or child-care facility
22 is located that he or she is now residing within one thousand feet of such public
23 school, private school, or child-care facility and shall provide verifiable proof to
24 the sheriff that he or she resided there prior to the opening of such public school,
25 private school, or child-care facility.

26 **3. For purposes of this section, "resides" means sleeps in a**
27 **residence, which may include more than one location and may be**
28 **mobile or transitory.**

29 **4. Violation of the provisions of subsection 1 of this section is a class D**
30 **felony except that the second or any subsequent violation is a class B**
31 **felony. Violation of the provisions of subsection 2 of this section is a class A**
32 **misdemeanor except that the second or subsequent violation is a class D felony.**

566.149. 1. Any person who has pleaded guilty or nolo
2 contendere to, or been convicted of, or been found guilty of violating
3 any of the provisions of this chapter or the provisions of subsection 2
4 of section 568.020, RSMo, incest; section 568.045, RSMo, endangering the
5 welfare of a child in the first degree; subsection 2 of section 568.080,
6 RSMo, use of a child in a sexual performance; section 568.090, RSMo,
7 promoting a sexual performance by a child; section 573.023, RSMo,
8 sexual exploitation of a minor; section 573.025, RSMo, promoting child
9 pornography; or section 573.040, RSMo, furnishing pornographic
10 material to minors; shall not be present in or loiter within five hundred
11 feet of any school building, on real property comprising any school, or
12 in any conveyance owned, leased, or contracted by a school to transport
13 students to or from school or a school- related activity when persons
14 under the age of eighteen are present in the building, on the grounds,
15 or in the conveyance, unless the offender is a parent, legal guardian, or
16 custodian of a student present in the building and has met the
17 conditions set forth in subsection 2 of this section.

18 2. No parent, legal guardian, or custodian who has pleaded guilty
19 or nolo contendere to, or been convicted of, or been found guilty of
20 violating any of the offenses listed in subsection 1 of this section shall
21 be present in any school building, on real property comprising any
22 school, or in any conveyance owned, leased, or contracted by a school
23 to transport students to or from school or a school-related activity
24 when persons under the age of eighteen are present in the building, on
25 the grounds or in the conveyance unless the parent, legal guardian, or
26 custodian has permission to be present from the superintendent or
27 school board or in the case of a private school from the principal. In
28 the case of a public school, if permission is granted, the superintendent
29 or school board president must inform the principal of the school
30 where the sex offender will be present. Permission may be granted by
31 the superintendent, school board, or in the case of a private school
32 from the principal for more than one event at a time, such as a series
33 of events, however, the parent, legal guardian, or custodian must obtain
34 permission for any other event he or she wishes to attend for which he
35 or she has not yet had permission granted.

36 3. Violation of the provisions of this section shall be a class A

37 **misdemeanor.**

566.151. 1. A person at least twenty-one years of age or older commits the
2 crime of enticement of a child if that person persuades, solicits, coaxes, entices,
3 or lures whether by words, actions or through communication via the Internet or
4 any electronic communication, any person who is less than fifteen years of age for
5 the purpose of engaging in sexual conduct [with a child].

6 2. It is not an affirmative defense to a prosecution for a violation of this
7 section that the other person was a peace officer masquerading as a minor.

8 3. [Attempting to entice a child is a class D felony.

9 4.] Enticement of a child **or an attempt to commit enticement of a**
10 **child** is a [class C felony unless the person has previously pled guilty to or been
11 found guilty of violating the provisions of this section, section 568.045, 568.050,
12 or 568.060, RSMo, or this chapter, in which case it is a class B felony] **felony for**
13 **which the authorized term of imprisonment shall be not less than five**
14 **years and not more than thirty years. No person convicted under this**
15 **section shall be eligible for parole, probation, conditional release, or**
16 **suspended imposition or execution of sentence for a period of five**
17 **calendar years.**

566.213. 1. A person commits the crime of sexual trafficking of
2 a child under the age of twelve if the individual knowingly:

3 (1) Recruits, entices, harbors, transports, provides, or obtains by
4 any means a person under the age of twelve to participate in a
5 commercial sex act or benefits, financially or by receiving anything of
6 value, from participation in such activities; or

7 (2) Causes a person under the age of twelve to engage in a
8 commercial sex act.

9 2. It shall not be an affirmative defense that the defendant
10 believed that the person was twelve years of age or older.

11 3. Sexual trafficking of a child less than twelve years of age shall
12 be a felony for which the authorized term of imprisonment is life
13 imprisonment without eligibility for probation or parole until the
14 defendant has served not less than twenty-five years of such
15 sentence. Subsection 4 of section 558.019, RSMo, shall not apply to the
16 sentence of a person who has pleaded guilty to or been found guilty of
17 sexual trafficking of a child less than twelve years of age, and "life
18 imprisonment" shall mean imprisonment for the duration of a person's

19 natural life for the purposes of this section.

568.020. 1. A person commits the crime of incest if he marries or purports
2 to marry or engages in sexual intercourse or deviate sexual intercourse with a
3 person he knows to be, without regard to legitimacy:

- 4 (1) His ancestor or descendant by blood or adoption; or
- 5 (2) His stepchild, while the marriage creating that relationship exists; or
- 6 (3) His brother or sister of the whole or half-blood; or
- 7 (4) His uncle, aunt, nephew or niece of the whole blood.

8 2. [For purposes of this section:

9 (1) "Sexual intercourse" means any penetration, however slight, of the
10 female sex organ by the male sex organ;

11 (2) "Deviate sexual intercourse" means any act of sexual gratification
12 between persons not lawfully married to one another, involving the genitals of one
13 person and the mouth, tongue or anus of another.

14 3.] Incest is a class D felony.

568.060. 1. A person commits the crime of abuse of a child if such
2 person[:

3 (1)] knowingly inflicts cruel and inhuman punishment upon a child less
4 than seventeen years old[; or

5 (2) Photographs or films a child less than eighteen years old engaging in
6 a prohibited sexual act or in the simulation of such an act or who causes or
7 knowingly permits a child to engage in a prohibited sexual act or in the
8 simulation of such an act for the purpose of photographing or filming the act.

9 2. As used in this section "prohibited sexual act" means any of the
10 following, whether performed or engaged in either with any other person or alone:
11 sexual or anal intercourse, masturbation, bestiality, sadism, masochism,
12 fetishism, fellatio, cunnilingus, any other sexual activity or nudity, if such nudity
13 is to be depicted for the purpose of sexual stimulation or gratification of any
14 individual who may view such depiction].

15 [3.] 2. Abuse of a child is a class C felony, unless:

16 (1) In the course thereof the person inflicts serious emotional injury on
17 the child, or the offense is committed as part of a ritual or ceremony in which
18 case the crime is a class B felony; or

19 (2) A child dies as a result of injuries sustained from conduct chargeable
20 pursuant to the provisions of this section, in which case the crime is a class A
21 felony.

22 [4. As used in this section, the word "fetishism" means a condition in
23 which erotic feelings are excited by an object or body part whose presence is
24 psychologically necessary for sexual stimulation or gratification.]

575.159. 1. A person commits the crime of aiding a sexual
2 **offender if such person knows that another person is a convicted sexual**
3 **offender who is required to register as a sexual offender and has reason**
4 **to believe that such sexual offender is not complying, or has not**
5 **complied with the requirements of sections 589.400 to 589.425, RSMo,**
6 **and who, with the intent to assist the sexual offender in eluding a law**
7 **enforcement agency that is seeking to find the sexual offender to**
8 **question the offender about, or to arrest the offender for, his or her**
9 **noncompliance with the requirements of sections 589.400 to 589.425,**
10 **RSMo:**

11 (1) Withholds information from or does not notify the law
12 enforcement agency about the sexual offender's noncompliance with the
13 requirements of sections 589.400 to 589.425, RSMo, and if known the
14 whereabouts of the sexual offender;

15 (2) Harbors or attempts to harbor or assists another person in
16 harboring or attempting to harbor the sexual offender;

17 (3) Conceals or attempts to conceal or assists another person in
18 concealing or attempting to conceal the sexual offender; or

19 (4) Provides information to the law enforcement agency
20 regarding the sexual offender which the person knows to be false
21 information.

22 2. Aiding a sexual offender is a class D felony.

23 3. The provisions of this section do not apply if the sexual
24 offender is incarcerated in or is in the custody of a state correctional
25 facility, a private correctional facility, a local jail, or a federal
26 correctional facility.

575.195. 1. A person commits the crime of escape from commitment [or],
2 **detention, or conditional release if he or she has been committed to a state**
3 **mental hospital under the provisions of sections 552.010 to 552.080, RSMo, or [of]**
4 **sections 632.480 to 632.513, RSMo, or has been ordered to be taken into custody,**
5 **detained, or held pursuant to sections 632.480 to 632.513, RSMo, or as provided**
6 **by section 632.475, RSMo, has been committed to the department of**
7 **mental health as a criminal sexual psychopath under statutes in effect**

8 **before August 13, 1980, or has been granted a conditional release under**
9 **the provisions of sections 552.010 to 552.080, RSMo, or sections 632.480**
10 **to 632.513, RSMo, and he or she escapes from such commitment [or], detention,**
11 **or conditional release.**

12 2. Escape from commitment [or], detention, **or conditional release** is
13 a class D felony.

589.400. 1. Sections 589.400 to 589.425 shall apply to:

2 (1) Any person who, since July 1, 1979, has been or is hereafter convicted
3 of, been found guilty of, or pled guilty or nolo contendere to committing, or
4 attempting to commit, a felony offense of chapter 566, RSMo, **including sexual**
5 **trafficking of a child and sexual trafficking of a child under the age of**
6 **twelve**, or any offense of chapter 566, RSMo, where the victim is a minor; or

7 (2) Any person who, since July 1, 1979, has been or is hereafter convicted
8 of, been found guilty of, or pled guilty or nolo contendere to committing, or
9 attempting to commit one or more of the following offenses: kidnapping[,
10 pursuant to section 565.110, RSMo] **when the victim is a child and the**
11 **defendant is not a parent or guardian of the child**; felonious restraint
12 **when the victim was a child and the defendant is not a parent or**
13 **guardian of the child**; **sexual contact or sexual intercourse with a**
14 **resident of a nursing home, under section 565.200, RSMo**; **endangering**
15 **the welfare of a child under section 568.045, RSMo, when the**
16 **endangerment is sexual in nature**; **genital mutilation of a female child,**
17 **under section 568.065, RSMo**; promoting prostitution in the first degree;
18 promoting prostitution in the second degree; promoting prostitution in the third
19 degree; sexual exploitation of a minor; promoting child pornography in the first
20 degree; promoting child pornography in the second degree; possession of child
21 pornography; furnishing pornographic material to minors; public display of
22 explicit sexual material; coercing acceptance of obscene material; promoting
23 obscenity in the first degree; promoting pornography for minors or obscenity in
24 the second degree; incest; abuse of a child, pursuant to section 568.060, RSMo,
25 **when the abuse is sexual in nature**; use of a child in a sexual performance;
26 or promoting sexual performance by a child; and committed or attempted to
27 commit the offense against a victim who is a minor, defined for the purposes of
28 sections 589.400 to 589.425 as a person under eighteen years of age; or

29 (3) Any person who, since July 1, 1979, has been committed to the
30 department of mental health as a criminal sexual psychopath; or

31 (4) Any person who, since July 1, 1979, has been found not guilty as a
32 result of mental disease or defect of any offense listed in subdivision (1) or (2) of
33 this subsection; or

34 (5) Any person who is a resident of this state who has, since July 1, 1979,
35 or is hereafter convicted of, been found guilty of, or pled guilty to or nolo
36 contendere in any other state, foreign country, or under federal or military
37 jurisdiction to committing, or attempting to commit, an offense which, if
38 committed in this state, would be a violation of chapter 566, RSMo, or a felony
39 violation of any offense listed in subdivision (2) of this subsection or has been or
40 is required to register in another state or has been or is required to register
41 under federal or military law; or

42 (6) Any person who has been or is required to register in another state or
43 has been or is required to register under federal or military law and who works
44 or attends school or training on a full-time or on a part-time basis in
45 Missouri. "Part-time" in this subdivision means for more than fourteen days in
46 any twelve-month period.

47 2. Any person to whom sections 589.400 to 589.425 apply shall, within ten
48 days of conviction, release from incarceration, or placement upon probation,
49 register with the chief law enforcement official of the county **or city not within**
50 **a county** in which such person resides unless such person has already registered
51 in that county for the same offense. Any person to whom sections 589.400 to
52 589.425 apply if not currently registered in their county of residence shall
53 register with the chief law enforcement official of such county **or city not**
54 **within a county** within ten days of August 28, 2003. The chief law enforcement
55 official shall forward a copy of the registration form required by section 589.407
56 to a city, town, village, or campus law enforcement agency located within the
57 county of the chief law enforcement official, if so requested. Such request may
58 ask the chief law enforcement official to forward copies of all registration forms
59 filed with such official. The chief law enforcement official may forward a copy of
60 such registration form to any city, town, village, or campus law enforcement
61 agency, if so requested.

62 3. The registration requirements of sections 589.400 through 589.425 are
63 lifetime registration requirements unless:

64 (1) All offenses requiring registration are reversed, vacated or set aside
65 [or unless];

66 (2) The registrant is pardoned of the offenses requiring registration;

67 **(3) The registrant is no longer required to register and his or her**
68 **name shall be removed from the registry under the provisions of**
69 **subsection 6 of this section; or**

70 **(4) The registrant may petition the court for removal from the**
71 **registry under subsection 7 of this section and the court orders the**
72 **removal of such person from the registry.**

73 4. For processing an initial sex offender registration the chief law
74 enforcement officer of the county **or city not within a county** may charge the
75 offender registering a fee of up to ten dollars.

76 5. For processing any change in registration required pursuant to section
77 589.414 the chief law enforcement official of the county **or city not within a**
78 **county** may charge the person changing their registration a fee of five dollars for
79 each change made after the initial registration.

80 **6. Effective August 28, 2006, any person currently on the sexual**
81 **offender registry for being convicted of, found guilty of, or pleading**
82 **guilty or nolo contendere to, committing felonious restraint when the**
83 **victim was a child and he or she was the parent or guardian of the**
84 **child, non-sexual child abuse that was committed under section 568.060,**
85 **RSMo, or kidnapping when the victim was a child and he or she was the**
86 **parent or guardian of the child, shall be removed from the**
87 **registry. However, such person shall remain on the sexual offender**
88 **registry for any other offense for which he or she is required to**
89 **register under sections 589.400 to 589.425.**

90 **7. Effective August 28, 2006, any person currently on the sexual**
91 **offender registry for having been convicted of, found guilty of, or**
92 **having pleaded guilty or nolo contendere to, promoting prostitution in**
93 **the second degree, promoting prostitution in the third degree, public**
94 **display of explicit sexual material, or statutory rape in the second**
95 **degree, may file a petition in the civil division of the circuit court in**
96 **the county in which the offender was convicted or found guilty of or**
97 **pled guilty or nolo contendere to the offense or offenses for the removal**
98 **of his or her name from the sexual offender registry after ten years**
99 **have passed from the date he or she was required to register. The**
100 **court may grant such relief if the registrant demonstrates to the court**
101 **that he or she has complied with the provisions of this section and has**
102 **no pending charges for an offense for which he or she would have to**

103 register if found guilty of, or pleaded guilty to, the offense. The
104 prosecuting attorney in the circuit court which the petition is filed
105 shall be given notice of the petition to present evidence in opposition
106 to the requested relief or may otherwise demonstrate the reasons why
107 the petition should be denied. If the petition is denied, the registrant
108 shall wait at least twelve months before petitioning the court again. If
109 the court finds that the petitioner is entitled to relief which removes
110 the registrant's name from the registry, a certified copy of the written
111 findings or order shall be forwarded by the court to the chief law
112 enforcement officer having jurisdiction over the offender and to the
113 Missouri state highway patrol in order to have the registrant's name
114 removed from the registry.

115 8. Any nonresident worker or nonresident student shall register
116 for the duration of such person's employment or attendance at any
117 school of higher education and is not entitled to relief under the
118 provisions of subsection 7 of this section. Any registered offender from
119 another state who has a temporary residence in this state and resides
120 more than fourteen days in a twelve-month period shall register for the
121 duration of such person's temporary residency and is not entitled to the
122 provisions of subsection 4 of this section.

123 9. Any person whose name is removed from the sexual offender
124 registry under subsections 6 or 7 of this section shall no longer be
125 required to fulfill the registration requirements of sections 589.400 to
126 589.425, unless such person is required to register for committing
127 another offense after being removed from the registry.

589.402. 1. The chief law enforcement officer of the county or city not
2 within a county may maintain a web page on the Internet, which shall be open
3 to the public and shall include a registered sexual offender search capability.

4 2. The registered sexual offender search shall make it possible for any
5 person using the Internet to search for and find the information specified in
6 [subdivisions (1) to (4) of] subsection 3 of this section, if known, on offenders
7 registered in this state pursuant to sections 589.400 to 589.425, except that only
8 persons who have been convicted of, found guilty of, or plead guilty to committing
9 or attempting to commit sexual offenses shall be included on this web site.

10 3. Only the information listed in [subdivisions (1) to (4) of] this subsection
11 shall be provided to the public in the registered sexual offender search:

- 12 (1) The name **and any known aliases** of the offender;
- 13 (2) **The date of birth and any known alias dates of birth of the**
- 14 **offender;**
- 15 (3) **A physical description of the offender;**
- 16 (4) The [last known address] **residence, temporary, work, and school**
- 17 **addresses** of the offender, including the street address, city, county, state, and
- 18 zip code;
- 19 [(3) A photograph] **(5) Any photographs** of the offender; [and
- 20 (4) The crime or crimes for which the offender was convicted that caused
- 21 him or her to have to register.]
- 22 **(6) A physical description of the offender's vehicles, including**
- 23 **the year, make, model, color, and license plate number;**
- 24 **(7) The nature and dates of all offenses qualifying the offender**
- 25 **to register;**
- 26 **(8) The date on which the offender was released from the**
- 27 **department of mental health, prison, or jail, or placed on parole,**
- 28 **supervised release, or probation for the offenses qualifying the offender**
- 29 **to register; and**
- 30 **(9) Compliance status of the offender with the provisions of**
- 31 **sections 589.400 to 589.425.**
- 32 **4. The chief law enforcement officer of any county or city not**
- 33 **within a county may publish in any newspaper distributed in the**
- 34 **county or city not within a county the sexual offender information**
- 35 **provided under subsection 3 of this section for any offender residing**
- 36 **in the county or city not within a county.**

589.403. Any person to whom subsection 1 of section 589.400 applies who

2 is paroled, discharged, or otherwise released from any correctional facility of the

3 department of corrections or any mental health institution where such person was

4 confined, shall be informed by the official in charge of such correctional facility

5 or mental health institution of the person's possible duty to register pursuant to

6 sections 589.400 to 589.425. If such person is required to register pursuant to

7 sections 589.400 to 589.425, the official in charge of the correctional facility or the

8 mental health institution shall obtain the address where the person expects to

9 reside upon discharge, parole or release, and shall report such address to the

10 chief law enforcement official of the county **or city not within a county** where

11 the person expects to reside upon discharge, parole or release.

589.405. Any person to whom subsection 1 of section 589.400 applies who
2 is released on probation, discharged upon payment of a fine, or released after
3 confinement in a county jail shall, prior to such release or discharge, be informed
4 of the possible duty to register pursuant to sections 589.400 to 589.425 by the
5 court having jurisdiction over the case. If such person is required to register
6 pursuant to sections 589.400 to 589.425, the court shall obtain the address where
7 the person expects to reside upon discharge, parole or release and shall report
8 such address to the chief law enforcement official of the county **or city not**
9 **within a county** where the person expects to reside upon discharge, parole or
10 release.

589.407. 1. Any registration pursuant to sections 589.400 to 589.425 shall
2 consist of completion of an offender registration form developed by the Missouri
3 state highway patrol. Such form shall include, but is not limited to the following:
4 (1) A statement in writing signed by the person, giving the name, address,
5 Social Security number and phone number of the person, **the license plate**
6 **number and vehicle description, including the year, make, model, and**
7 **color of each vehicle owned or operated by the offender**, the place of
8 employment of such person, enrollment within any institutions of higher
9 education, the crime which requires registration, whether the person was
10 sentenced as a persistent or predatory offender pursuant to section 558.018,
11 RSMo, the date, place, and a brief description of such crime, the date and place
12 of the conviction or plea regarding such crime, the age and gender of the victim
13 at the time of the offense and whether the person successfully completed the
14 Missouri sexual offender program pursuant to section 589.040, if applicable; and
15 (2) The fingerprints and a photograph of the person.

16 **2. The offender shall provide positive identification and**
17 **documentation to substantiate the accuracy of the information**
18 **completed on the offender registration form, including but not limited**
19 **to the following:**

20 (1) **A photocopy of a valid driver's license or non-driver's**
21 **identification card;**

22 (2) **A document verifying proof of the offender's residency; and**

23 (3) **A photocopy of the vehicle registration for each of the**
24 **offender's vehicles.**

589.414. 1. If any person required by sections 589.400 to 589.425 to
2 register changes residence or address within the same county **or city not within**

3 **a county** as such person's previous address, the person shall inform the chief law
4 enforcement official in writing within ten days of such new address and phone
5 number, if the phone number is also changed.

6 2. If any person required by sections 589.400 to 589.425 to register
7 changes such person's residence or address to a different county, the person shall
8 appear in person and shall inform both the chief law enforcement official with
9 whom the person last registered and the chief law enforcement official of the
10 county **or city not within a county** having jurisdiction over the new residence
11 or address in writing within ten days of such new address and phone number, if
12 the phone number is also changed. If any person required by sections 589.400 to
13 589.425 to register changes their state of residence, the person shall appear in
14 person and shall inform both the chief law enforcement official with whom the
15 person was last registered and the chief law enforcement official of the area in
16 the new state having jurisdiction over the new residence or address within ten
17 days of such new address. Whenever a registrant changes residence, the chief
18 law enforcement official of the county **or city not within a county** where the
19 person was previously registered shall promptly inform the Missouri state
20 highway patrol of the change. When the registrant is changing the residence to
21 a new state, the Missouri state highway patrol shall promptly inform the
22 responsible official in the new state of residence.

23 3. Any person required by sections 589.400 to 589.425 to register who
24 changes his or her enrollment or employment status with any institution of
25 higher education within this state, by either beginning or ending such enrollment
26 or employment, shall inform the chief law enforcement officer of such change
27 within seven days after such change is made.

28 4. Any person required by sections 589.400 to 589.425 to register who
29 officially changes such person's name shall inform the chief law enforcement
30 officer of such name change within seven days after such change is made.

31 5. In addition to the requirements of subsections 1 and 2 of this section,
32 the following offenders shall report in person to the [county] **chief** law
33 enforcement agency every ninety days to verify the information contained in their
34 statement made pursuant to section 589.407:

35 (1) Any offender registered as a predatory or persistent sexual offender
36 under the definitions found in section 558.018, RSMo;

37 (2) Any offender who is registered for a crime where the victim was less
38 than eighteen years of age at the time of the offense; and

39 (3) Any offender who has pled guilty or been found guilty pursuant to
40 section 589.425 of failing to register or submitting false information when
41 registering.

42 6. In addition to the requirements of subsections 1 and 2 of this section,
43 all registrants shall report [annually] **semi-annually** in person in the month of
44 their birth **and six months thereafter** to the [county] **chief** law enforcement
45 agency to verify the information contained in their statement made pursuant to
46 section 589.407. **All registrants shall provide an updated photograph of**
47 **himself or herself in the month of his or her birth to the chief law**
48 **enforcement agency. The photograph must depict a clear likeness of**
49 **the registrant or the registrant shall be in violation of this section.**

50 7. In addition to the requirements of subsections 1 and 2 of this section,
51 all Missouri registrants who work or attend school or training on a full-time or
52 part-time basis in any other state shall be required to report in person to the
53 chief law enforcement officer in the area of the state where they work or attend
54 school or training and register in that state. "Part-time" in this subsection means
55 for more than fourteen days in any twelve-month period.

 589.425. 1. [Any person who is required to register pursuant to sections
2 589.400 to 589.425 and does not meet all requirements of sections 589.400 to
3 589.425 is guilty of a class A misdemeanor, unless the person has been convicted
4 pursuant to chapter 566 of an unclassified felony, class A felony, class B felony,
5 or any felony involving a child under the age of fourteen, in which case the person
6 is guilty of a class D felony.

7 2. Any person who commits a second or subsequent violation of subsection
8 1 of this section is guilty of a class D felony, unless the person has been convicted
9 pursuant to chapter 566 of an unclassified felony, class A felony, class B felony,
10 or any felony involving a child under the age of fourteen, in which case the person
11 is guilty of a class C felony.] **A person commits the crime of failing to**
12 **register as a sex offender when the person is required to register under**
13 **sections 589.400 to 589.425 and fails to comply with any requirement of**
14 **sections 589.400 to 589.425. Failing to register as a sex offender is a**
15 **class A misdemeanor unless the person is required to register based on**
16 **having committed an offense in chapter 566, RSMo, which was an**
17 **unclassified felony, a class A or B felony, or a felony involving a child**
18 **under the age of fourteen, in which case it is a class D felony.**

19 2. A person commits the crime of failing to register as a sex

20 offender as a second offense by failing to comply with any requirement
21 of sections 589.400 to 589.425 and he or she has previously pled guilty
22 to or has previously been found guilty of failing to register as a sex
23 offender. Failing to register as a sex offender as a second offense is a
24 class D felony unless the person is required to register based on having
25 committed an offense in chapter 566, RSMo, which was an unclassified
26 felony, a class A or B felony, or a felony involving a child under the age
27 of fourteen, in which case it is a class C felony.

28 3. A person commits the crime of failing to register as a sex
29 offender as a third offense by failing to meet the requirements of
30 sections 589.400 to 589.425 and he or she has, on two or more occasions,
31 previously pled guilty to or has previously been found guilty of failing
32 to register as a sex offender. Failing to register as a sex offender as a
33 third offense is a felony which shall be punished by a term of
34 imprisonment of not less than ten years and not more than thirty years.

35 (1) No court may suspend the imposition or execution of sentence
36 of a person who pleads guilty to or is found guilty of failing to register
37 as a sex offender as a third offense. No court may sentence such person
38 to pay a fine in lieu of a term of imprisonment.

39 (2) A person sentenced under this subsection shall not be eligible
40 for conditional release or parole until he or she has served at least two
41 years of imprisonment.

42 (3) Upon release, an offender who has committed failing to
43 register as a sex offender as a third offense shall be electronically
44 monitored as a mandatory condition of supervision. Electronic
45 monitoring may be based on a global positioning system or any other
46 technology which identifies and records the offender's location at all
47 times.

600.042. 1. The director shall:

2 (1) Direct and supervise the work of the deputy directors and other state
3 public defender office personnel appointed pursuant to this chapter; and he and
4 the chief deputy director may participate in the trial and appeal of criminal
5 actions at the request of the defender or upon order of the commission;

6 (2) Submit to the commission, between August fifteenth and September
7 fifteenth of each year, a report which shall include all pertinent data on the
8 operation of the state public defender system, the costs, projected needs, and

9 recommendations for statutory changes. Prior to October fifteenth of each year,
10 the commission shall submit such report along with such recommendations,
11 comments, conclusions, or other pertinent information it chooses to make to the
12 chief justice, the governor, and the general assembly. Such reports shall be a
13 public record, shall be maintained in the office of the state public defender, and
14 shall be otherwise distributed as the commission shall direct;

15 (3) With the approval of the commission, establish such divisions,
16 facilities and offices and select such professional, technical and other personnel,
17 including investigators, as he deems reasonably necessary for the efficient
18 operation and discharge of the duties of the state public defender system under
19 this chapter;

20 (4) Administer and coordinate the operations of defender services and be
21 responsible for the overall supervision of all personnel, offices, divisions and
22 facilities of the state public defender system, except that the director shall have
23 no authority to direct or control the legal defense provided by a defender to any
24 person served by the state public defender system;

25 (5) Develop programs and administer activities to achieve the purposes
26 of this chapter;

27 (6) Keep and maintain proper financial records with respect to the
28 providing of all public defender services for use in the calculating of direct and
29 indirect costs of any or all aspects of the operation of the state public defender
30 system;

31 (7) Supervise the training of all public defenders, assistant public
32 defenders, deputy public defenders and other personnel and establish such
33 training courses as shall be appropriate;

34 (8) With approval of the commission, promulgate necessary rules,
35 regulations and instructions consistent with this chapter defining the
36 organization of his office and the responsibilities of public defenders, assistant
37 public defenders, deputy public defenders and other personnel;

38 (9) With the approval of the commission, apply for and accept on behalf
39 of the public defender system any funds which may be offered or which may
40 become available from government grants, private gifts, donations or bequests or
41 from any other source. Such moneys shall be deposited in the state general
42 revenue fund;

43 (10) Contract for legal services with private attorneys on a case-by-case
44 basis and with assigned counsel as the commission deems necessary considering

45 the needs of the area, for fees approved and established by the commission;

46 (11) With the approval and on behalf of the commission, contract with
47 private attorneys for the collection and enforcement of liens and other judgments
48 owed to the state for services rendered by the state public defender system.

49 2. No rule or portion of a rule promulgated under the authority of this
50 chapter shall become effective unless it has been promulgated pursuant to the
51 provisions of section 536.024, RSMo.

52 3. The director and defenders shall, within guidelines as established by
53 the commission and as set forth in subsection 4 of this section, accept requests
54 for legal services from eligible persons entitled to counsel under this chapter or
55 otherwise so entitled under the constitution or laws of the United States or of the
56 state of Missouri and provide such persons with legal services when, in the
57 discretion of the director or the defenders, such provision of legal services is
58 appropriate.

59 4. The director and defenders shall provide legal services to an eligible
60 person:

61 (1) Who is detained or charged with a felony, including appeals from a
62 conviction in such a case;

63 (2) Who is detained or charged with a misdemeanor which will probably
64 result in confinement in the county jail upon conviction, including appeals from
65 a conviction in such a case;

66 (3) Who is detained or charged with a violation of probation or parole;

67 (4) Who has been taken into custody pursuant to section 632.489, RSMo,
68 including appeals from a determination that the person is a sexually violent
69 predator **and petitions for release**, notwithstanding any provisions of law to
70 the contrary;

71 (5) For whom the federal constitution or the state constitution requires
72 the appointment of counsel; and

73 (6) For whom, in a case in which he faces a loss or deprivation of liberty,
74 any law of this state requires the appointment of counsel; however, the director
75 and the defenders shall not be required to provide legal services to persons
76 charged with violations of county or municipal ordinances.

77 5. The director may:

78 (1) Delegate the legal representation of any person to any member of the
79 state bar of Missouri;

80 (2) Designate persons as representatives of the director for the purpose

81 of making indigency determinations and assigning counsel.

632.484. 1. When the attorney general receives written notice from any
2 law enforcement agency that a person, who has pled guilty to or been convicted
3 of a sexually violent offense and who is not presently in the physical custody of
4 an agency with jurisdiction:

5 (1) Has committed a recent overt act; or

6 (2) Has been in the custody of an agency with jurisdiction within the
7 preceding ten years and may meet the criteria of a sexually violent predator;
8 the attorney general may file a petition for detention and evaluation with the
9 probate division of the court in which the person was convicted, or committed
10 pursuant to chapter 552, RSMo, alleging the respondent may meet the definition
11 of a sexually violent predator and should be detained for evaluation for a period
12 of up to nine days. The written notice shall include the previous conviction
13 record of the person, a description of the recent overt act, if applicable, and any
14 other evidence which tends to show the person to be a sexually violent
15 predator. The attorney general shall provide notice of the petition to the
16 prosecuting attorney of the county where the petition was filed.

17 2. Upon a determination by the court that the person may meet the
18 definition of a sexually violent predator, the court shall order the detention and
19 transport of such person to a secure facility to be determined by the department
20 of mental health **under provisions of section 632.495**. The attorney general
21 shall immediately give written notice of such to the department of mental health.

22 3. Upon receiving physical custody of the person and written notice
23 pursuant to subsection 2 of this section, the department of mental health shall,
24 through either a psychiatrist or psychologist as defined in section 632.005, make
25 a determination whether or not the person meets the definition of a sexually
26 violent predator. The department of mental health shall, within seven days of
27 receiving physical custody of the person, provide the attorney general with a
28 written report of the results of its investigation and evaluation. The attorney
29 general shall provide any available records of the person that are retained by the
30 department of corrections to the department of mental health for the purposes of
31 this section. If the department of mental health is unable to make a
32 determination within seven days, the attorney general may request an additional
33 detention of ninety-six hours from the court for good cause shown.

34 4. If the department determines that the person may meet the definition
35 of a sexually violent predator, the attorney general shall provide the results of the

36 investigation and evaluation to the prosecutors' review committee. The
37 prosecutors' review committee shall, by majority vote, determine whether or not
38 the person meets the definition of a sexually violent predator within twenty-four
39 hours of written notice from the attorney general's office. If the prosecutors'
40 review committee determines that the person meets the definition of a sexually
41 violent predator, the prosecutors' review committee shall provide written notice
42 to the attorney general of its determination. The attorney general may file a
43 petition pursuant to section 632.486 within forty-eight hours after obtaining the
44 results from the department.

45 5. For the purposes of this section "recent overt act" means any act that
46 creates a reasonable apprehension of harm of a sexually violent nature.

47 6. The provisions of subdivision (2) of subsection 1 of this section shall
48 expire December 31, 2001.

632.489. 1. Upon filing a petition pursuant to section 632.484 or 632.486,
2 the judge shall determine whether probable cause exists to believe that the
3 person named in the petition is a sexually violent predator. If such probable
4 cause determination is made, the judge shall direct that person be taken into
5 custody and direct that the person be transferred to an appropriate secure
6 facility, including, but not limited to, a county jail. If the person is ordered to the
7 department of mental health, the director of the department of mental health
8 shall determine the appropriate secure facility to house the person **under the**
9 **provisions of section 632.495.**

10 2. Within seventy-two hours after a person is taken into custody pursuant
11 to subsection 1 of this section, excluding Saturdays, Sundays and legal holidays,
12 such person shall be provided with notice of, and an opportunity to appear in
13 person at, a hearing to contest probable cause as to whether the detained person
14 is a sexually violent predator. At this hearing the court shall:

15 (1) Verify the detainee's identity; and

16 (2) Determine whether probable cause exists to believe that the person is
17 a sexually violent predator. The state may rely upon the petition and supplement
18 the petition with additional documentary evidence or live testimony.

19 3. At the probable cause hearing as provided in subsection 2 of this
20 section, the detained person shall have the following rights in addition to the
21 rights previously specified:

22 (1) To be represented by counsel;

23 (2) To present evidence on such person's behalf;

24 (3) To cross-examine witnesses who testify against such person; and
25 (4) To view and copy all petitions and reports in the court file, including
26 the assessment of the multidisciplinary team.

27 4. If the probable cause determination is made, the court shall direct that
28 the person be transferred to an appropriate secure facility, including, but not
29 limited to, a county jail, for an evaluation as to whether the person is a sexually
30 violent predator. If the person is ordered to the department of mental health, the
31 director of the department of mental health shall determine the appropriate
32 secure facility to house the person. The court shall direct the director of the
33 department of mental health to have the person examined by a psychiatrist or
34 psychologist as defined in section 632.005 who was not a member of the
35 multidisciplinary team that previously reviewed the person's records. In addition,
36 such person may be examined by a consenting psychiatrist or psychologist of the
37 person's choice at the person's own expense. Any examination shall be conducted
38 in the facility in which the person is confined. Any examinations ordered shall
39 be made at such time and under such conditions as the court deems proper;
40 except that, if the order directs the director of the department of mental health
41 to have the person examined, the director shall determine the time, place and
42 conditions under which the examination shall be conducted. The psychiatrist or
43 psychologist conducting such an examination shall be authorized to interview
44 family and associates of the person being examined, as well as victims and
45 witnesses of the person's offense or offenses, for use in the examination unless the
46 court for good cause orders otherwise. The psychiatrist or psychologist shall have
47 access to all materials provided to and considered by the multidisciplinary team
48 and to any police reports related to sexual offenses committed by the person being
49 examined. Any examination performed pursuant to this section shall be
50 completed and filed with the court within sixty days of the date the order is
51 received by the director or other evaluator unless the court for good cause orders
52 otherwise. One examination shall be provided at no charge by the department.
53 All costs of any subsequent evaluations shall be assessed to the party requesting
54 the evaluation.

632.495. 1. The court or jury shall determine whether, [beyond a
2 reasonable doubt] **by clear and convincing evidence**, the person is a sexually
3 violent predator. If such determination that the person is a sexually violent
4 predator is made by a jury, such determination shall be by unanimous verdict of
5 such jury. Any determination as to whether a person is a sexually violent

6 predator may be appealed.

7 **2.** If the court or jury determines that the person is a sexually violent
8 predator, the person shall be committed to the custody of the director of the
9 department of mental health for control, care and treatment until such time as
10 the person's mental abnormality has so changed that the person is safe to be at
11 large. Such control, care and treatment shall be provided by the department of
12 mental health.

13 **3.** At all times, **persons ordered to the department of mental**
14 **health after a determination by the court that such persons may meet**
15 **the definition of a sexually violent predator, persons ordered to the**
16 **department of mental health after a finding of probable cause under**
17 **section 632.489, and** persons committed for control, care and treatment by the
18 department of mental health pursuant to sections 632.480 to 632.513 shall be
19 kept in a secure facility designated by the director of the department of mental
20 health and such persons shall be segregated at all times from any other patient
21 under the supervision of the director of the department of mental health. The
22 department of mental health shall not place or house [an offender determined to
23 be a sexually violent predator] **a person ordered to the department of**
24 **mental health after a determination by the court that such person may**
25 **meet the definition of a sexually violent predator, a person ordered to**
26 **the department of mental health after a finding of probable cause**
27 **under section 632.489, or a person committed for control, care, and**
28 **treatment by the department of mental health,** pursuant to sections
29 632.480 to 632.513, with other mental health patients [who have not been
30 determined to be sexually violent predators]. **The provisions of this**
31 **subsection shall not apply to a person who has been conditionally**
32 **released under section 632.505.**

33 **4.** The department of mental health is authorized to enter into an
34 interagency agreement with the department of corrections for the confinement of
35 such persons. Such persons who are in the confinement of the department of
36 corrections pursuant to an interagency agreement shall be housed and managed
37 separately from offenders in the custody of the department of corrections, and
38 except for occasional instances of supervised incidental contact, shall be
39 segregated from such offenders.

40 **5.** If the court or jury is not satisfied [beyond a reasonable doubt] **by**
41 **clear and convincing evidence** that the person is a sexually violent predator,

42 the court shall direct the person's release.

43 **6.** Upon a mistrial, the court shall direct that the person be held at an
44 appropriate secure facility, including, but not limited to, a county jail, until
45 another trial is conducted. If the person is ordered to the department of mental
46 health, the director of the department of mental health shall determine the
47 appropriate secure facility to house the person. Any subsequent trial following
48 a mistrial shall be held within ninety days of the previous trial, unless such
49 subsequent trial is continued as provided in section 632.492.

632.498. **1.** Each person committed pursuant to sections 632.480 to
2 632.513 shall have a current examination of the person's mental condition made
3 once every year by the director of the department of mental health or
4 designee. The yearly report shall be provided to the court that committed the
5 person pursuant to sections 632.480 to 632.513. The court shall conduct an
6 annual review of the status of the committed person. **The court shall not**
7 **conduct an annual review of a person's status if he or she has been**
8 **conditionally released.**

9 **2.** Nothing contained in sections 632.480 to 632.513 shall prohibit the
10 person from otherwise petitioning the court for [discharge] **release**. The director
11 of the department of mental health shall provide the committed person **who has**
12 **not been conditionally released** with an annual written notice of the person's
13 right to petition the court for release over the director's objection. The notice
14 shall contain a waiver of rights. The director shall forward the notice and waiver
15 form to the court with the annual report.

16 **3. If the committed person petitions the court for conditional**
17 **release over the director's objection, the petition shall be served upon**
18 **the court that committed the person, the director of the department of**
19 **mental health, the head of the facility housing the person, and the**
20 **attorney general.**

21 **4.** The committed person shall have a right to have an attorney represent
22 the person at the hearing but the person is not entitled to be present at the
23 hearing. If the court at the hearing determines by a preponderance of the
24 evidence that the person no longer suffers from a mental abnormality that makes
25 the person likely to engage in acts of sexual violence if [discharged] **released**,
26 then the court shall set a [hearing] **trial** on the issue. [At the hearing, the]

27 **5. The trial shall be governed by the following provisions:**

28 **(1)** The committed person shall be entitled to be present and entitled to

29 the benefit of all constitutional protections that were afforded the person at the
30 initial commitment proceeding[.];

31 **(2)** The attorney general shall represent the state and shall have a right
32 to a jury trial and to have the committed person evaluated by a psychiatrist or
33 psychologist not employed by the department of mental health or the department
34 of corrections. In addition, the person may be examined by a consenting
35 psychiatrist or psychologist of the person's choice at the person's own expense[.];

36 **(3)** The burden of proof at the trial shall be upon the state to prove
37 [beyond a reasonable doubt] **by clear and convincing evidence** that the
38 committed person's mental abnormality remains such that the person is not safe
39 to be at large and if released is likely to engage in acts of sexual violence. **If**
40 **such determination is made by a jury, the verdict must be unanimous;**

41 **(4)** **If the court or jury finds that the person's mental abnormality**
42 **remains such that the person is not safe to be at large and if released**
43 **is likely to engage in acts of sexually violence, the person shall remain**
44 **in the custody of the department of mental health in a secure facility**
45 **designated by the director of the department of mental health. If the**
46 **court or jury finds that the person's mental abnormality has so changed**
47 **that the person is not likely to commit acts of sexual violence if**
48 **released, the person shall be conditionally released as provided in**
49 **section 632.205.**

632.501. If the director of the department of mental health determines
2 that the person's mental abnormality has so changed that the person is not likely
3 to commit acts of sexual violence if released, the director shall authorize the
4 person to petition the court for release. The petition shall be served upon the
5 court **that committed the person, the director of the department of**
6 **mental health, the head of the facility housing the person,** and the
7 attorney general. [The court, upon receipt of the petition for release, shall order
8 a hearing within thirty days. The attorney general shall represent the state, and
9 shall have the right to have the petitioner examined by a consenting psychiatrist
10 or psychologist not employed by the department of mental health or department
11 of corrections. The hearing shall be before a jury if demanded by either the
12 petitioner or the attorney general. The burden of proof shall be upon the attorney
13 general to show beyond a reasonable doubt that the petitioner's mental
14 abnormality remains such that the petitioner is not safe to be at large and that
15 if discharged is likely to commit acts of sexual violence.] **The hearing and trial,**

16 if any, shall be conducted according to the provisions of section
17 632.498.

632.504. Nothing in sections 632.480 to 632.513 shall prohibit a person
2 from filing a petition for [discharge] **release** pursuant to sections 632.480 to
3 632.513. However, if a person has previously filed a petition for [discharge]
4 **release** without the director's [of the department of mental health] approval and
5 the court determined either upon review of the petition or following a hearing,
6 that the petitioner's petition was frivolous or that the petitioner's condition had
7 not so changed that the person was safe to be at large, then the court shall deny
8 the subsequent petition unless the petition contains facts upon which a court
9 could find the condition of the petitioner had so changed that a hearing was
10 warranted. Upon receipt of a first or subsequent petition from committed persons
11 without the director's approval, the court shall endeavor whenever possible to
12 review the petition and determine if the petition is based upon frivolous grounds
13 and if so shall deny the petition without a hearing.

632.505. 1. Upon determination by a court or jury that the
2 **person's mental abnormality has so changed that the person is not**
3 **likely to commit acts of sexual violence if released, the court shall place**
4 **the person on conditional release pursuant to the terms of this**
5 **section. The primary purpose of conditional release is to provide**
6 **outpatient treatment and monitoring to prevent the person's condition**
7 **from deteriorating to the degree that the person would need to be**
8 **returned to a secure facility designated by the director of the**
9 **department of mental health.**

10 **2. The department of mental health is authorized to enter into**
11 **an interagency agreement with the department of corrections for the**
12 **supervision of persons granted a conditional release by the court. In**
13 **conjunction with the department of corrections, the department of**
14 **mental health shall develop a conditional release plan which contains**
15 **appropriate conditions for the person to be released. The plan shall**
16 **address the person's need for supervision, counseling, medication,**
17 **community support services, residential services, vocational services,**
18 **and alcohol and drug treatment. The department of mental health shall**
19 **submit the proposed plan for conditional release to the court.**

20 **3. The court shall review the plan and determine the conditions**
21 **that it deems necessary to meet the person's need for treatment and**

22 supervision and to protect the safety of the public. The court shall
23 order that the person shall be subject to the following conditions and
24 other conditions as deemed necessary:

25 (1) Maintain a residence approved by the department of mental
26 health and not change residence unless approved by the department of
27 mental health;

28 (2) Maintain employment unless engaged in other structured
29 activity approved by the department of mental health;

30 (3) Obey all federal and state laws;

31 (4) Not possess a firearm or dangerous weapon;

32 (5) Not be employed or voluntarily participate in an activity that
33 involves contact with children without approval of the department of
34 mental health;

35 (6) Not consume alcohol or use a controlled substance except as
36 prescribed by a treating physician and to submit, upon request, to any
37 procedure designed to test for alcohol or controlled substance use;

38 (7) Not associate with any person who has been convicted of a
39 felony unless approved by the department of mental health;

40 (8) Not leave the state without permission of the department of
41 mental health;

42 (9) Not have contact with specific persons, including but not
43 limited to, the victim or victim's family, as directed by the department
44 of mental health;

45 (10) Not have any contact with any child without specific
46 approval by the department of mental health;

47 (11) Not possess material that is pornographic, sexually oriented,
48 or sexually stimulating;

49 (12) Not enter a business providing sexually stimulating or
50 sexually oriented entertainment;

51 (13) Submit to a polygraph, plethysmograph, or other electronic
52 or behavioral monitoring or assessment;

53 (14) Submit to electronic monitoring which may be based on a
54 global positioning system or other technology which identifies and
55 records a person's location at all times;

56 (15) Attend and fully participate in assessment and treatment as
57 directed by the department of mental health;

58 (16) Take all psychiatric medications as prescribed by a treating
59 physician;

60 (17) Authorize the department of mental health to access and
61 obtain copies of confidential records pertaining to evaluation,
62 counseling, treatment, and other such records and provide the consent
63 necessary for the release of any such records;

64 (18) Pay fees to the department of mental health and the
65 department of corrections to cover the costs of services and monitoring;

66 (19) Report to or appear in person as directed by the department
67 of mental health and the department of corrections, and to follow all
68 directives of such departments;

69 (20) Comply with any registration requirements under sections
70 589.400 to 589.425, RSMo; and

71 (21) Comply with any other conditions that the court determines
72 to be in the best interest of the person and society.

73 4. The court shall provide a copy of the order containing the
74 conditions of release to the person, the attorney general, the
75 department of mental health, the head of the facility housing the
76 person, and the department of corrections.

77 5. A person who is conditionally released may be supervised by
78 a probation and parole officer employed by the department of
79 corrections remains under the control, care, and treatment of the
80 department of mental health.

81 6. The court may modify conditions of release upon its own
82 motion or upon the petition of the department of mental health, the
83 department of corrections, or the person on conditional release.

84 7. The following provisions shall apply to violations of
85 conditional release:

86 (1) If any probation and parole officer has reasonable cause to
87 believe that a person on conditional release has violated a condition of
88 release or that the person is no longer a proper subject for conditional
89 release, the officer may issue a warrant for the person's arrest. The
90 warrant shall contain a brief recitation of the facts supporting the
91 officer's belief. The warrant shall direct any peace officer to take the
92 person into custody immediately so that the person can be returned to
93 a secure facility;

94 (2) If the director of the department of mental health or the
95 director's designee has reasonable cause to believe that a person on
96 conditional release has violated a condition of release or that the
97 person is no longer a proper subject for conditional release, the
98 director or the director's designee may request that a peace officer take
99 the person into custody immediately, or request that a probation and
100 parole officer or the court which ordered the release, issue a warrant
101 for the person's arrest so that the person can be returned to a secure
102 facility;

103 (3) At any time during the period of a conditional release, the
104 court which ordered the release may issue a notice to the released
105 person to appear to answer a charge of a violation of the terms of the
106 release and the court may issue a warrant of arrest for the
107 violation. Such notice shall be personally served upon the released
108 person. The warrant shall authorize the return of the released person
109 to the custody of the court or to the custody of the director of mental
110 health or the director's designee;

111 (4) No peace officer responsible for apprehending and returning
112 the person to the facility upon the request of the director of the
113 department of mental health or the director's designee or a probation
114 and parole officer shall be civilly liable for apprehending or
115 transporting such person to the facility so long as such duties were
116 performed in good faith and without negligence;

117 (5) The department of mental health shall promptly notify the
118 court that the person has been apprehended and returned to a secure
119 facility;

120 (6) Within seven days of the person's return to a secure facility,
121 the department of mental health must either request that the attorney
122 general file a petition to revoke the person's conditional release or
123 continue the person on conditional release;

124 (7) If a petition to revoke conditional release is filed, the person
125 shall remain in custody until a hearing is held on the petition. The
126 hearing shall be given priority on the court's docket. If upon hearing
127 the evidence, the court finds by preponderance of the evidence that the
128 person has violated a condition of release and that the violation of the
129 condition was sufficient to render the person no longer suitable for

130 conditional release, the court shall revoke the conditional release and
131 order the person returned to a secure facility designated by the
132 director of the department of mental health. If the court determines
133 that revocation is not required, the court may modify or increase the
134 conditions of release or order the person's release on the existing
135 conditions of release;

136 (8) A person whose conditional release has been revoked may
137 petition the court for subsequent release pursuant to sections 632.498,
138 632.501, and 632.504 no sooner than six months after the person's return
139 to a secure facility.

140 8. The department of mental health may enter into agreements
141 with the department of corrections and other departments and may
142 enter into contracts with private entities for the purpose of supervising
143 a person on conditional release.

144 9. The department of mental health and the department of
145 corrections may require a person on conditional release to pay a
146 reasonable fee to cover the costs of providing services and monitoring
147 while the person is released. Each department may adopt rules with
148 respect to establishing, waiving, collecting, and using fees. Any rule or
149 portion of a rule, as that term is defined in section 536.010, RSMo, that
150 is created under the authority delegated in this section shall become
151 effective only if it complies with and is subject to all of the provisions
152 of chapter 536, RSMo, and, if applicable, section 536.028, RSMo. This
153 section and chapter 536, RSMo, are nonseverable and if any of the
154 powers vested with the general assembly pursuant to chapter 536,
155 RSMo, to review, to delay the effective date, or to disapprove and annul
156 a rule are subsequently held unconstitutional, then the grant of
157 rulemaking authority and any rule proposed or adopted after August
158 28, 2006, shall be invalid and void.

159 10. In the event a person on conditional release escapes from
160 custody, the department of mental health shall notify the court, the
161 department of corrections, the attorney general, the chief law
162 enforcement officer of the county or city not within a county from
163 where the person escaped or absconded, and any other persons
164 necessary to protect the safety of the public or to assist in the
165 apprehension of the person. The attorney general shall notify victims

166 **and witnesses. Upon receiving such notice, the attorney general shall**
167 **file escape from commitment charges under section 575.195, RSMo.**

632.507. 1. The attorney general shall in a timely manner inform victims
2 of a sexually violent offense committed by a person:

3 (1) That a written notice has been given by the agency with jurisdiction
4 to the attorney general and the multidisciplinary team pursuant to subsection 1
5 of section 632.483;

6 (2) Of the decision of the prosecutor's review committee in determining
7 whether or not the person may be a sexually violent predator;

8 (3) That a petition has been filed with the circuit court pursuant to
9 section 632.484 or 632.486;

10 (4) Of the outcome of a trial held pursuant to the provisions of section
11 632.492;

12 (5) Of the filing of any petition or pending proceedings held pursuant to
13 the provisions of sections 632.498 to [632.504] **632.505;**

14 **(6) Of the escape of any person committed under sections 632.480**
15 **to 632.513.**

16 2. Such victims shall have the right to be present at any proceeding held
17 pursuant to the provisions of sections 632.480 to 632.513. Failure to notify shall
18 not be a reason for postponement of release. Nothing in this section shall create
19 a cause of action against the state or an employee of the state acting within the
20 scope of the employee's employment as a result of the failure to notify pursuant
21 to this section.

650.120. 1. Subject to appropriation, the Missouri state highway
2 **patrol shall create a program to investigate Internet sex crimes against**
3 **children, including but not limited to enticement of a child and**
4 **possession or promotion of child pornography. The highway patrol**
5 **shall designate members of the patrol to investigate such crimes**
6 **against children and provide computer forensics on a full-time basis**
7 **under this program. The highway patrol shall coordinate with any**
8 **existing Internet Crimes Against Children task forces located in**
9 **Missouri to investigate such crimes.**

10 **2. The highway patrol shall make computer forensics available**
11 **to any multijurisdictional Internet cyber crime law enforcement task**
12 **force or law enforcement agency that requests such assistance.**

Section B. Because of the need to protect Missouri citizens from sexual

2 offenders, section A of this act is deemed necessary for the immediate
3 preservation of the public health, welfare, peace and safety, and is hereby
4 declared to be an emergency act within the meaning of the constitution, and
5 section A of this act shall be in full force and effect upon its passage and
6 approval.

✓

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Bill

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